

## ATTACHMENT A

### Contra Costa Clean Water Program

Comments on Tentative Order—Stormwater NPDES Permit for eastern portions of Contra Costa County and the Contra Costa County Flood Control and Water Conservation District and for the Cities of Antioch, Brentwood, and Oakley

Attachment: Specific Requested Changes  
Minor clarifications and corrections made August 25, 2010

Provision	Requested Change	Rationale	Response to Comments
C.3.b.iii. and C.3.b.v.(2) Research study on Green Streets	Delete	Duplicative requirement and disproportionate burden. Instead, allow the five permittees to continue their current participation in the same study mandated by the Region 2 Municipal Regional Permit (R2 MRP); Region 5 staff to evaluate the results of that study in coordination with Region 2 staff.	The Regions will coordinate this effort. Language has been changed as follows: C.3.b.iii. "...The Permittees shall <u>participate in the cumulatively complete ten</u> pilot green street projects, <u>mandated by the R2 MRP</u> , that incorporate LID techniques for site design and treatment in accordance with Provision C.3.c and that provide stormwater treatment sized in accordance with Provision C.3.d."
C.3.c.i.(2)(b)(iv) and C.3.c.iii.(1) Harvesting and reuse criteria	Delete	Duplicative requirement and disproportionate burden. Instead, allow the five permittees to continue their current participation in the development of proposed criteria as mandated by the R2 MRP; Region 5 staff to evaluate the results of that study in coordination with Region 2 staff.	No change. Reports shall be submitted to Region 5.

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C.3.c.i.(2)(b)(v) and C.3.c.iii.(2) Report on experience determining feasibility of harvesting and reuse	Delete	Duplicative requirement and disproportionate burden. Instead, allow the five permittees to participate in an inter-regional analysis of experience implementing the criteria. Region 5 staff to evaluate the results of that analysis in coordination with Region 2 staff.	No change. Reports shall be submitted to Region 5.
C.3.c.i.(2)(b)(vi) and C.3.c.iii.(3) Proposed model biotreatment soil media specifications and soil testing methods	Delete	Duplicative requirement and disproportionate burden. Instead, allow the five permittees to continue their current participation in development of proposed criteria as mandated by the R2 MRP. Region 5 staff to review the proposed criteria in coordination with Region 2 staff.	The Regions will coordinate this effort. Language has been changed as follows: C.3.c.i.(2)(b)(iv) "...By December 1, 2011, the Permittees, working collaboratively or individually, shall submit <del>for to the</del> Central Valley Water Board <del>approval</del> , a proposed set of model biotreatment soil media specifications and soil infiltration testing methods to verify a long-term infiltration rate of 5 to 10 inches/hour. This submittal <del>to the Central Valley Water Board</del> shall, at a minimum, contain the information required in Provision C.3.c.iii.(3). <del>Once the Central Valley Water Board approves biotreatment soil media specifications and soil infiltration testing methods, the</del> The Permittees shall ensure that biotreatment systems installed to meet the requirements of Provision C.3.c and d comply with the <del>Central Valley Water Board approved</del> minimum specifications and soil infiltration testing methods."

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C.3.c.i.(2)(b)(vii) and C.3.c.iii.(4) Minimum specifications for green roofs	Delete	Duplicative requirement and disproportionate burden. Instead, allow the five permittees to continue their current participation in development of proposed criteria as mandated by the R2 MRP. Region 5 staff to review the proposed criteria in coordination with Region 2 staff.	The Regions will coordinate this effort. Language has been changed as follows: (vii) "...By May 1, 2012, the Permittees shall submit <del>for to the</del> Central Valley Water Board <del>approval</del> , proposed minimum specifications for green roofs. This submittal <del>to the Central Valley Water Board</del> shall, at a minimum, contain the information required in Provision C.3.c.iii.(4). <del>Once the Central Valley Water Board approves green roof minimum specifications,</del> The Permittees shall ensure that green roofs installed to meet the requirements of Provision C.3.c and d comply with the <del>Central Valley Water Board approved</del> minimum specifications."

Provision	Requested Change	Rationale	Response to Comments
C.3.e.ii.(1) "Special Projects" that may receive LID treatment reduction credits	<p>Append to this paragraph the definition used by Permittees now (in the <i>Guidebook</i> referenced in Permittee local ordinances):</p> <p><u>Special Projects (development projects where the amount of runoff identified in Provision C.3.d. must be treated, but a portion of that runoff may be treated by filtration) may include:</u></p> <ul style="list-style-type: none"> <li>• <u>Portions of sites which are not being developed or developed but which must be retrofit to meet treatment requirements under the "50% rule" (Provisions C.3.b.ii.(1)(c) and (d), C.3.b.ii.(3)(a) and (b), and C.3.b.ii.(4)(b)).</u></li> <li>• <u>Sites smaller than one acre approved for lot-line to lot-line development as part of a municipality's stated objective to preserve or enhance a pedestrian-oriented "smart growth" type of urban design.</u></li> </ul>	<p>The Tentative Order sets up a parallel decision-making process, with the Region 5 Board and the Region 2 Board each receiving public comment and making independent decisions on the types of development that may be "Special Projects" and the LID treatment reduction credits for which these projects may be eligible. Instead, adopt a working definition based on current permittee policies. Region 5 staff to propose changes to the Region 5 Board following the Region 2 submittal and action by Region 2's Board.</p>	<p>We do not concur with this proposed addition of language. Region 2 is still coordinating with the R2 MRP Permittees and interested parties on this subject with no decision made at this time; therefore, Region 5 does not concur with this proposed change because it would not be consistent within the two Regional MS4 Orders.</p>
C.3.e.ii.(2). Proposal for "Special Projects."	Delete	Delete the requirement for submittal of a "Special Projects" proposal per the comment above.	No change. The report shall be submitted to Region 5.

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C.8.a.iii.(4) Water Quality Monitoring	Add the following: <u>"Contributing to regional collaborations involving the Bay Area Stormwater Management Agencies Association (BASMAA), provided that the monitoring requirements of this permit are attained by those collaborative programs and/or supplemental monitoring activities by the Permittees."</u>	Makes explicit that the five permittees' current participation in regional activities is a "regional monitoring collaborative" as defined in Provision C.8.a.	Concur that collaboration is more effective and efficient. Language was added as follows:  C.8.a.iii.(4) "A combination of the previous options, so that all requirements are fulfilled. <u>Contributing to regional collaborations involving the Bay Area Stormwater Management Agencies Association (BASMAA), provided that the monitoring requirements of this permit are attained by those collaborative programs and/or supplemental monitoring activities by the Permittees."</u>
C.8. Numbering of sub-provisions	Please include C.8.b. as "intentionally left blank" and renumber the following subprovisions to match those in the R2 MRP.	This will facilitate coordination between the two permits.	Concur with this change to facilitate coordination. Subprovision formatting has been revised.
C.8.b.iii. Status Monitoring	Change to: "Permittees shall complete the Status Monitoring in Table 8.1 at least once during the permit term."	The change would bring this monitoring requirement in line with the level of effort required of Region 2 permittees under the parallel provision in the R2 MRP. This change would make it possible for Marsh Creek to be incorporated in the list of watersheds to be monitored in rotation through the regional monitoring collaborative that is implementing monitoring in Bay Area creeks pursuant to R2 MRP requirements.	The Regions have agreed to allow Marsh Creek to be added to the inter-regional monitoring collaborative. Language has been changed as follows:  C.8.b.iii. "Frequency – Permittees shall complete the Status Monitoring in Table 8.1 <del>annually</del> <u>at least once during the permit term.</u> "  Table 8.1 Status Monitoring Elements has been changed to reflect Marsh Creek sampling. See attached Table 8.1.

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C.8.c.i.(5) Stressor/Source Identification Project Cap	Change as follows: "Stressor/Source Identification Project Cap: Permittees who conduct this monitoring through a regional collaborative shall be required to initiate no more than one Stressor/Source Identification project during the Permit term, <del>in total, and at least two must be toxicity follow-ups, unless monitoring results do not indicate the presence of toxicity.</del> If conducted through a stormwater countywide program, the Contra Costa Permittees shall be required to initiate no more than two (one for toxicity)."	Requirement appears to be self-contradictory as to the number of projects required.	Concur with change to clarify statement. Language has been changed as follows: C.8.c.i.(5) "...Stressor/Source Identification Project Cap: Permittees who conduct this monitoring through a regional collaborative shall be required to initiate no more than one Stressor/Source Identification project during the Permit term, <del>in total, and at least two must be toxicity follow-ups, unless monitoring results do not indicate the presence of toxicity.</del> If conducted through a stormwater countywide program, the Contra Costa Permittees shall be required to initiate no more than two (one for toxicity)."
C.8.c.ii. BMP Effectiveness Investigation	Change as follows: "If conducted through a stormwater countywide program, the East Contra Costa Permittees in the Central Valley Water Board Region shall be required to <del>initiate</del> <u>participate in</u> one BMP Effectiveness Investigation."	This change would allow coordination with other Contra Costa Clean Water Program municipalities and would restore equity between requirements for Region 5 and Region 2 permittees.	Concur with change as part of the coordination efforts with R2 MRP Permittees and Region 2. Language has been changed as follows: C.8.c.ii. "...If conducted through a stormwater countywide program, the East Contra Costa Permittees in the Central Valley Water Board Region shall be required to <del>initiate</del> <u>participate in</u> one BMP Effectiveness Investigation."

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C.8.d. Pollutants of Concern and Long-Term Trends Monitoring	Add the following to the second paragraph: "The alternative approach may be an inter-regional effort designed to improve measurement and estimation of pollutant loads to the Bay/Delta from small tributaries."	This change would clarify that the Permittees may comply with this requirement through participation in the Small Tributaries Loading Strategy, a project currently under development to enable Region 2 permittees to comply with a parallel provision in the R2 MRP.	Concur with coordination with Region 2 and R2 MRP. Language has been added at the end of the second paragraph as follows:  C.8.d. "... <u>The alternative approach may be an inter-regional effort designed to improve measurement and estimation of pollutant loads to the Bay/Delta from small tributaries.</u> "
C.11.b.iii. Monitor Methylmercury	Change as follows: "The Permittees shall report monitoring results <u>or program status</u> annually beginning with their 2012 Annual Report.	It may not be possible to complete inter-regional monitoring program planning in time to have monitoring results to report in 2012.	Concur with coordination with Region 2 due to delay in monitoring for at least one year. Language has been changed as follow:  C.11.b.iii. "Reporting – the Permittees shall report monitoring results annually beginning with their <u>2013</u> Annual Report."

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C.11.d.i. Pilot Project to Evaluate and Enhance Municipal Sediment Removal and Management Practices	Change as follows: "The Permittees shall <u>participate in a project to jointly</u> evaluate ways to enhance mercury load reduction benefits of operation and maintenance activities that remove or manage sediment. The purpose of this task is to implement these management practices at the pilot scale in <u>one drainage five drainages inter-region-wide</u> during this permit term.	This change would allow coordination with other Contra Costa Clean Water Program and Bay Area Stormwater Management Agencies Association municipalities and would restore equity between requirements for Region 5 and Region 2 permittees.	Concur with coordination with Region 2. Language has been changed as follows:  C.11.d.i. "The Permittees shall <u>participate in a project to jointly</u> evaluate ways to enhance mercury load reduction benefits of operation and maintenance activities that remove or manage sediment. The purpose of this task is to implement these management practices at the pilot scale in <u>one drainage five drainages inter-region-wide</u> during this permit term."  Language has also been revised in the first paragraph as C.11. "Total Mercury and Methylmercury Control Program ...The Permittees are <del>may comply</del> <u>complying</u> with <del>any</del> requirements of this provision through <u>an established</u> collaborative effort <u>with the</u> Permittees of the R2 MRP."
C.11.i.i. Methylmercury Exposure Reduction Program	Append the following to the end of the paragraph beginning "Task Description": "Activities may be performed by a third party if the Permittees wish to provide funding or this purpose. This requirement may be satisfied by a combination of related efforts through the Regional Monitoring Program or other similar collaborative efforts, as long as the efforts are consistent with the Exposure Reduction Strategy and fulfill the Exposure Reduction Workplan."	This change would make explicit that the permittees can implement this requirement in collaboration with Region 2 Contra Costa municipalities subject to similar requirements in the R2 MRP. (Both the R2 MRP and Tentative Order requirements are in fulfillment of State Board Order 2005-0060.)	Concur with coordination with Region 2. Language has been add to the Implementation Level as follows:  C.11.i.ii. Implementation Level – <u>The exposure reduction activities may be performed by a third party if the Permittees wish to provide funding for this purpose. This requirement may be satisfied by a combination of related efforts through the Regional Monitoring Program or other similar collaborative efforts, as long as the efforts are consistent with the Exposure Reduction Strategy and fulfill the Exposure Reduction Workplan...</u> "